

AFRICAN UNION

الاتحاد الأفريقي

*African Commission on Human & Peoples' Rights*



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*Commission Africaine des Droits de l'Homme & des Peuples*

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**FINAL COMMUNIQUE OF THE 44<sup>th</sup> ORDINARY SESSION OF THE AFRICAN  
COMMISSION ON HUMAN AND PEOPLES' RIGHTS,  
HELD IN ABUJA, FEDERAL REPUBLIC OF NIGERIA  
FROM 10 TO 24 NOVEMBER 2008**

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1. The African Commission on Human and Peoples' Rights (African Commission), held its 44<sup>th</sup> Ordinary Session in Abuja, Federal Republic of Nigeria, from 10 to 24 November 2008.
2. Honourable Justice Sanji Mmasenono Monageng, Chairperson of the African Commission, chaired the Public Sessions, while the Vice-Chairperson, Dr Angela Melo, presided over the Private Sessions during the temporary absence of the Chairperson.
3. The following Members attended and participated in the 44<sup>th</sup> Ordinary Session:
  - Commissioner **Catherine Dupe Atoki**;
  - Commissioner **Musa Ngary Bitaye**;
  - Commissioner **Reine Alapini-Gansou**;
  - Commissioner **Bahame Tom Mukriya Nyanduga**;
  - Commissioner **Soyata Maiga**;

- Commissioner **Mumba Malila**;
  - Commissioner **Kayitesi Zainabo Sylvie**;
  - Commissioner **Pansy Tlakula**;
  - Commissioner **Yeung Kam John Yeung Sik Yuen**.
4. A total of four hundred and ninety seven (497) participants attended the 44<sup>th</sup> Ordinary Session, including thirty one (31) States Parties to the African Charter, nine (9) National Human Rights Institutions, seven (7) International and Inter-Governmental Organizations, and two hundred and seventy five (275) African and International NGOs.
5. The 44<sup>th</sup> Ordinary Session was preceded by a number of parallel activities and meetings, including the following:
- Consultative Meeting on Theatre as a Vehicle for Human Rights Education, from 4 to 5 November 2008;
  - Meeting of the Working Group on Economic, Social and Cultural Rights (ECOSOC, from 5 to 6 November 2008;
  - Diplomatic Training for Staff and Commissioners, from 6 to 7 November 2008;
  - NGO Forum, from 7 to 9 November 2008;
  - Meeting of the Working Group on Indigenous Populations / Communities in Africa, from 7 to 9 November 2008;
  - Meeting of the Working Group on the Death Penalty, from 8 to 9 November 2008;
  - Consultative Seminar on the Interaction between the Community Courts, including the African Courts on Human and peoples Rights Seminar Co-hosted by Interights and MacArthur Foundation on 8 to 9 November 2008;

- Roundtable Discussion on ‘Upholding Women’s Rights to a High Standard of Living, Health, Housing and Well-being’, 14 November 2008. wellbeing
6. The purpose of these activities and meetings was to enhance the visibility of the African Commission.
  7. The 44<sup>th</sup> Ordinary Session was preceded by the NGO Forum, organised by the African Centre for Democracy and Human Rights Studies, which was held from 7 to 9 November 2008. The over 200 interest groups and participants, examined the human rights situation in Africa, and expressed concerns over specific issues such as the situation of the rights of women and conflicts in the Great Lakes Region.
  8. The Honourable Solicitor General of the Federal Republic of Nigeria, Mr. A. A. Yola, representing the Attorney General and Minister of Justice of the Federal Republic of Nigeria, Chief Michael Kaase Aondoaka SAN, welcomed all participants to the Session of the African Commission taking place in Abuja, Nigeria. The Honourable Solicitor General thanked Members and staff of the African Commission for accepting the invitation of the Federal Government of Nigeria to host the 44<sup>th</sup> Ordinary Session of the African Commission.
  9. He said that the Nigerian Government is committed to the promotion of human rights, peace and stability across the region, and that President Alhaji Umaru Musa Yar’Adua, GCFR, has pledged the commitment of his administration to democratic and open society based on the rule of law, and a country that is fair to all persons living in it. He added that the Government has recently developed a Federal Action Plan for the

protection and promotion of human rights in Nigeria, and is also taking steps to ensure the entrenchment of the culture of human rights.

10. The Executive Director of the Centre for Democracy and Human Rights Studies, Mrs Hannah Forster, the representative of Non-governmental Organisations, expressed concern at the continuous human rights violations in some African countries, caused or aggravated by poverty, conflicts, and bad governance. She expressed the concern of the NGO Forum regarding the persistence of conflicts in the Great Lakes Region of Africa and flow of refugees. Mrs. Hannah Forster called on African Governments affected by armed conflicts to ensure that all parties involved in the conflicts respect international humanitarian law, and that those who commit war crimes be brought before competent courts for trial. She requested the African Commission to adopt a resolution on the violation of human rights and international humanitarian law committed by all persons in conflicts in Africa. Mrs. Hannah Forster also expressed concern about human rights violations against women and children, in particular the practice of harmful traditional practices and trafficking in women.

11. The Executive Director Mr Gilbert Sebihogo, on behalf of the Network of African National Human Rights Institutions, said that the Network was a strategic partner of the African Commission in the promotion and protection of human rights in Africa. On the general human rights situation, he lamented that after several years, human rights issues on the African continent still remain critical. Underscoring the alarming human rights situation in many parts of the continent, especially the ongoing conflict in the Great Lakes Region, that is now becoming a threat to international peace and security, he called on all the parties involved in the conflict for an immediate cessation of hostilities. He emphasised that

democracy can only be realised through transparency, good governance, peace and respect for human rights, and urged governments to support their work.

12. Speaking on behalf of States Parties to the African Charter, the Minister of Legal Affairs and Human Rights of the Great Peoples' Congress, Socialist Peoples' Jamahiriya, Libya, Mr Hosni Alwiheche, stated that the 44<sup>th</sup> Ordinary Session is taking place at a time when the question of human rights has become a concern for States Parties, and regarded as an important issue for the global agenda. He noted that armed conflicts continue to be the main cause of human rights violations in Africa. Mr Hosni Alwiheche highlighted Libya's contribution in the settlement of conflicts in the region by engaging belligerents in a process of constructive dialogue, and through the provision of humanitarian assistance to victims.

13. In her opening statement, the Chairperson of the African Commission, speaking on behalf of the Members and Staff of the Commission, and on her own behalf, expressed gratitude to His Excellency Alhaji Umaru Musa Yar'Adua, GCFR, President of the Federal Republic of Nigeria, for inviting the Commission to Abuja, Federal Republic of Nigeria. She welcomed all participants and thanked the Government and People of Nigeria for hosting the Session.

14. The Chairperson noted that since the last Session a lot of development has taken place in the field of human rights. She indicated that the African Commission had organized a number of consultations and meetings to improve its working methods, and to forge closer collaboration with its

various partners. She stated that despite some progress, the overall human rights situation remains unsatisfactory. She deplored the conflicts in a number of African countries where human rights and humanitarian laws are violated. In that regard, she said the African Commission is concerned about the escalating violence in the Democratic Republic of Congo and the related deteriorating human rights abuses, especially in the North Kivu Province.

15. She highlighted the need to build a culture of human rights observance and to establish strong mechanisms to protect human rights in Africa. She noted that economic and social rights are still beyond the reach of most Africans who continue to lack access to clean water, food, adequate housing, and called on States Parties to ensure the enjoyment of these rights. She expressed concern that the situation of women remains a very serious concern, especially in Somalia.

16. The Chairperson recalled that the drafters of the African Charter recognized that the promotion and protection of human rights should be our collective responsibility. She further noted that although the primary responsibility for human rights protection is on governments, other stakeholders have to play their own role. She, therefore, called on all stakeholders to reflect on how best they can continue to uphold human rights and human dignity in Africa.

17. Honourable Chief Odein Ajumogobia, SAN, Minister of Energy and Petroleum Resources, speaking on behalf of the President of the Federal

Republic of Nigeria, His Excellency Alhaji Umaru Musa Yar'Adua, GCFR, officially opened the 44<sup>th</sup> Ordinary Session of the African Commission.

18. Honourable Chief Odein Ajumogobia, SAN, welcomed the Members of the African Commission and the participants to the Federal Republic of Nigeria. He thanked the Members of the Commission for choosing Nigeria to hold the Session of the African Commission.

19. He noted that Nigeria has had a long and proud relationship with the African Commission and is among the first African States to sign, ratify and domesticate the African Charter, reaffirming the commitment and unshaken resolve of Nigeria to live up to its obligations to uphold human rights and fundamental freedoms. Chief Ajumogobia pointed out that the 1999 Constitution of Nigeria provides a good foundation for human rights, and that the Nigerian judiciary has earned a reputation of protecting human rights in Nigeria. He stated that since the current President came to power in 2007, his administration has been working on issues such as the rule of law and due process that are necessary for human rights protection.

20. Chief Ajumogobia observed that the African continent is still beset with several human rights problems and the general lack of access to basic needs for dignified living. He stated that Africa cannot continue to be the object of pity by the rest of the world, and that self-reliance and the achievement of the Millennium Development Goals must be a priority of African States. Chief Ajumogobia emphasized that in order for Africa to achieve the Millennium Development Goals, it is important for all to

realize that society is about empowering people to change their material conditions. He went on to state that the rights of Africans must be respected if they are expected to contribute to the crusade for Africa's economic and social rebirth.

21. Noting the importance of the mandate of the African Commission to promote and protect human rights in Africa, he implored African Governments to work with the African Commission to do away with the culture of impunity in Africa, and to demonstrate that Africa and her people will have no tolerance for violators of human rights on the Continent. He urged the African Commission to re-dedicate itself to a programme of human rights education, to foster the attitudes and behaviours needed to uphold human rights for all members of society.
22. The Commission heard statements relating to the human rights situation in Africa from the representatives of the following States Parties: Algeria, Cameroon, Central African Republic, Chad, Cote D'Ivoire, Egypt, Ethiopia, Guinea, Libya, Mali, Mozambique, Rwanda, Saharawi Arab Democratic Republic (SADR), Senegal, South Africa, Sudan, Tunisia, Uganda and Zimbabwe.
23. Statements were also made by representatives of Intergovernmental and International Organizations, as well as by the National Human Rights Institutions in Africa and Non-governmental Organizations.
24. In her statement, the Chairperson of the African Committee of Experts on the Rights and Welfare of the Child, Mrs Seynabou Ndiaye Diakhate, lamented the deterioration of human rights observance in the continent.



She recalled that at the 12<sup>th</sup> Summit of Heads of State and Government, the Executive Council adopted a resolution requesting the African Commission and the Committee to work in close partnership. She said that time has now come for the two organisations to cooperate more closely through, among other things, the organisation of periodic meetings, joint missions, and experience sharing.

25. The Representative of the Office of the United Nations High Commissioner for Human Rights, Ms Samia Slimane in her statement, informed the Session that twenty one years on, the situation of human rights on the African continent remains generally grave. She indicated that the combination of corruption and impunity jeopardizes the efforts being deployed in many parts of the continent to alleviate poverty and strengthen peace building.

26. She praised the efforts being made by the African Union, Regional Economic Communities and States Parties to give effect to all categories of rights, including the right to development. She stated that the Office of the United Nations High Commissioner for Human Rights intends to move from an ad hoc support to real partnership with the African Union through the intensification of its assistance to the AU, and the reinforcement of the capacity of the Peace and Security Council.

27. Ms Samia Slimane underscored that such cooperation between the Office of the United Nations High Commissioner for Human Rights and the AU will be formalised through a Memorandum of Understanding that will be signed during the AU Summit in January 2009. Further more, she called upon the African Commission to contribute to the Universal Periodic

Review, by providing credible and reliable information on States Reports to the UN Human Rights Council.

28. The representative of the International Organisation of the Francophonie, (OIF) Mr Tigri Alassani, expressed his appreciation for the Commission's work in advancing human rights in Africa, and for its support to the work of national and regional mechanisms in protecting and promoting human rights. In this context, he confirmed his organisation's commitment to support further the various initiatives undertaken by the Commission in raising awareness and respect for human rights in Member States, and assisting them to meet their human rights obligations. He recognised the facilitating role that the Commission could play in strengthening dialogue on and raising awareness of human rights in States Parties, and through the African Union.

29. He declared that the OIF is committed, through the Bamako Declaration on Democracy, to the consolidation of peace, the rule of law and the promotion of human rights in Africa. He indicated that the OIF has been involved in the resolution of conflicts in Africa, especially in Chad, the Central African Republic, Guinea, and Cote d'Ivoire.

30. The representative of the Inter-American Commission on Human Rights (IACHR) Elizabeth Abi Mershed, thanked the African Commission for the opportunity given her Organisation to make a statement at the Session of the African Commission. She indicated that the IACHR is the counterpart of the ACHPR in the Americas. She said that both institutions share the same objectives and face similar challenges. She indicated that the

collaboration between the two organisations will help each of them to learn how to address challenges in the future. She concluded by stating that the Inter-American Commission is willing to strengthen its relationship with the African Commission.

**31.** In conformity with Article 62 of the African Charter on Human and Peoples' Rights, the Second Periodic Report of the Federal Republic of the Nigeria was presented to the Commission. The Concluding Observations on the Report was adopted by the African Commission.

**32.** Members of the African Commission presented their reports of the activities they undertook as Members of the Commission, as well as activities undertaken during the inter-session in the context of their various special mechanisms and mandates. The following Reports were presented on:

- The Rights of Women in Africa,
- Human Rights Defenders in Africa,
- Prisons and Conditions of Detention in Africa,
- Freedom of Expression and Access to Information,
- Refugees, Asylum Seekers and Internally Displaced Persons and Migrants in Africa,
- The Follow-up Committee on the Implementation of the Robben Island Guidelines,
- Working Group on Indigenous Populations / Communities in Africa,
- Working Group on Economic, Social and Cultural Rights in Africa,

- Working Group on Specific Issues Relevant to the Work of the African Commission,
- Working Group on the Death Penalty, and
- The Focal Point on the Rights of Older Persons.

33. They reported on the human rights situation in Africa and proposed recommendations with a view to enhancing the promotion and protection of human rights in general.

34. The African Commission did not receive any application for Affiliate Status by a National Human Rights Institution during the 44<sup>th</sup> Ordinary Session, hence the number of NHRI with Affiliate Status with the African Commission remains at 21.

35. The African Commission considered applications by NGOs and granted Observer Status to the following NGOs:

- Arid Lands Institute, Kenya;
- Association Omunga , Angola;
- Coalition for an Effective African Court on Human and Peoples' Rights, Tanzania;
- Collectif des familles des disparu(e)s en Algérie, France;
- Human Rights Development Initiative (HRDI), South Africa;
- International Humanist and Ethical Union, United Kingdom;
- International Catholic Movement for International and Cultural Affairs (ICMICA) (Pax Romana), Switzerland;
- Save the Children Sweden, Sweden;
- Water Aid, United Kingdom,
- National Counseling Center, (NCC), Angola;
- Associacao Construndo Comunidades, Angola; and

- Rights Enforcement and Public Law Centre (REPLACE), Nigeria

36. The Commission deferred two requests for Observer Status to its 45<sup>th</sup> Ordinary Session: Plan International and International Foundation for the Protection of Human Rights Defenders.

37. This brings the number of NGOs with Observer Status with the African Commission to three hundred and ninety two (392)

38. The Secretary to the African Commission, Dr. Mary Maboreke, presented her Report to the African Commission. The report covered administrative, financial and other matters relating to the work of the Commission.

39. The African Commission adopted the following Resolutions:

- Resolution on the Human Rights Situation in the Republic of The Gambia;
- Resolution on Elections in Africa;
- Resolution Calling on State Parties to Observe the Moratorium on Death Penalty;
- Resolution on Human Rights Situation in Somalia;
- Resolution on Joint Promotional Missions;
- Resolution on Access to Health and Needed Medicine in Africa;
- Resolution on the Human Rights Situation in the Democratic Republic of Congo;
- Resolution on Maternal Mortality in Africa;
- Resolution on the Human Rights and Humanitarian Situation in Zimbabwe.

40. The African Commission considered and adopted its Interim Rules of Procedure with a view to preparing for a meeting with the African Court

to harmonise the Rules of the two organs. The African Commission decided to transmit its Interim Rules of Procedure on complementarity to the African Court.

**41.** The African Commission considered 74 Communications: it was Seized with 10; it considered 44 on Admissibility and 20 on the Merits. The Commission finalized two Communications, and decided to defer the rest for consideration to its 45<sup>th</sup> Ordinary Session to be held in May 2009.

**42.** The African Commission adopted its Twenty fifth (25<sup>th</sup>) Activity Report which will be submitted to the 15<sup>th</sup> Ordinary Session of the Executive Council, and the 13<sup>th</sup> Summit of the Assembly of Heads of State and Government of the African Union, scheduled to take place in Addis Ababa in January 2009.

**43.** The African Commission adopted the following Reports:

- Report of the Promotional Mission to Malawi,
- Report of the Promotional Mission to Zambia,
- Report of a Fact-finding Mission to Botswana,
- Report of the Working Methods Workshop of the African Commission,
- Report of the Brainstorming / Consultative Meeting of AU Organs on their Working Relations,
- Report of the Conference on Strategic Partnering on Human Rights in Africa.

**44.** The African Commission expresses its sincere appreciation and profound gratitude to the Government and People of the Federal Republic Nigeria for the excellent facilities placed at its disposal, and for the warm welcome and hospitality accorded to the participants, all of which contributed immensely to the success of the deliberations of its 44<sup>th</sup> Ordinary Session.

45. The Closing Ceremony of the 44<sup>th</sup> Ordinary Session took place on the 24 November 2008, in Abuja, Nigeria.

46. The Chairperson of the African Commission held a Press Conference after the Closing Ceremony.

**Done in Abuja, Federal Republic of Nigeria, 24 November 2008**

2008

# FINAL COMMUNIQUE OF THE 44th ORDINARY SESSION OF THE AFRICAN COMMISSION ON HUMAN AND PEOPLES' RIGHTS

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